

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(SPECIAL ORIGINAL JURISDICTION)

Monday, the Nineteenth day of July, two thousand and four

PRESENT

The Honourable Sri Justice V.Eswaraiah

WRIT PETITION No.21727 OF 2003

BETWEEN:

1. R.Venkat Ram Reddy.
2. Kum.Prasanna Laxmi.
3. Md.Inayat Shareef.
4. G.Shyamlal.
5. Mohd.Ismail Pasha.
6. Mohd.Khaja Moinuddin.
7. U.Brahma Prasad.

Petitioners

And

1. The Chairman and Managing Director, A.P., Central Power Distribution Company Ltd., Singareni Bhavan, Hyderabad.
2. The Superintending Engineer (Operation Circle), Ranga Reddy (South), A.P., Central Power Distribution Company Ltd., Mint Compound, Hyderabad.

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ, order, or orders/direction declaring the impugned action of the respondents in letter No.SE/OP/RRC(S)/Adm/D.No. 2299/02, dt.21-11-2002 and in not absorbing the petitioners for the posts of LDCs/Typist/Sub-Engineers, as illegal, arbitrary and in violation of principles of natural justice apart from violation of fundamental rights guaranteed under Arts.14,16 and 21 of the Constitution of India with consequential direction to the respondents to forthwith absorb the petitioners for the above said posts.

For the Petitioners: Mr.P.Raghava Reddy, Advocate.

For the Respondents: Mr.S.Ravindranath, S.C., for APSEB.

The Court made the following:

ORDER :

Pursuant to the directions of this Court in W.P.No.5064 of 1999, the cases of the petitioners herein have been considered for appointment of LDC/Typist/Sub-Engineer and rejected their cases vide Proceedings of the second respondent dated 21-11-2002 on the grounds that (1) Agreement number and check measurement date not mentioned in the Service Certificate, (2) The service certificates furnished by them along with application form was sent to the vigilance cell of APTRANSCO for verification to confirm the genuineness of Service Certificates. As per the report of vigilance cell of APTRANSCO, the genuineness regarding their services with contractor could not be established due to lack of corroborating evidence. Questioning the said proceedings dated 21-11-2002, the petitioners herein filed this Writ Petition for not absorbing them in the posts of LDCs/Typists/Sub-Engineers, as illegal, arbitrary, violation of principles of natural justice and to direct the respondents to absorb the petitioners in the said posts forthwith.

After filing a counter, this Court made an order in WPMP.No.28875 of 2003 in W.P.No.21727 of 2003 on 9-12-2003, observing that the rejection of the cases of the petitioners for the aforesaid reason is arbitrary on the part of the respondents and the said reason is within nobody's knowledge and the respondents have not even stated in the order of rejection or in the counter affidavit as to what corroborating evidence they are in search of verification of the veracity of the certificates issued by the Contractor. The petitioners are former casual labourers and in search of employment in the public sector and they are in the second round of litigation before the Court. Their legitimate expectations founded on B.P.Ms.No.36 potentiality remain to be engraved as an epitaph. Accordingly, the first respondent was directed to cause an enquiry into the validity of the claim of the petitioners for absorption in terms of BP.Ms.No.36 and to file an affidavit before this Court as to whether they are entitled for absorption in the said posts.

Pursuant to the said direction, the first respondent filed a counter on 21-2-2004, stating that the Service Certificates produced by the contract labourers were countersigned by the officials of APSEB., and the length of service was taken into consideration with reference to the agreements, measurement books and after elaborate enquiry it was found that out of 100,67 persons are found to be contract labourers, therefore, they fell within the zone of consideration. It is further stated that depending upon the qualifications of those 67 persons subject to the availability of posts to the extent earmarked as on 18-5-1997, the selection process will be conducted.

Thereafter, this Court passed another detailed interim order on 31-3-2004 in WPMP No.27121 of 2003, wherein it has been stated that the counter affidavit filed by the first respondent is silent as to the issue whether the petitioners' certificates were found to be genuine and whether they were among 67 persons who were found to be contract labourers. But the standing counsel appearing for the respondents stated on instructions that the petitioners' certificates were found to be genuine. This Court found fault on the report of the vigilance

department and therefore, a further direction was issued, directing the first respondent to file another affidavit as to the procedure adopted in verifying the certificates of the petitioners. The learned counsel appearing for the respondents submits that in view of the second verification report, there may not be any need or necessity to file any report with regard to the procedure adopted by the vigilance department in verifying the certificates of the petitioners and accordingly aggrieved by that a portion of the order a Writ Appeal is filed, but not yet admitted..

Both the counsel appearing for the petitioners and respondents submit that admittedly, the names of the petitioners are found in the names of 67 contract labourers and they can be accommodated in the posts earmarked in BP.Ms.No.36, dated 18-5-1997 by following the rule of reservation.

In view of the submissions of both the counsel appearing for the parties and in view of the admissions made by the respondents that the names of the petitioners are found place in the name of 67 contract of labourers, I am of the view that without probing further it is just and proper to direct the respondents to absorb the petitioners against the persons earmarked in BP.Ms.No.36, dated 18-5-1997.

Accordingly, the Writ Petition is allowed, setting aside the impugned order dated 21-11-2002 and the respondents are directed to absorb the petitioners as against the posts earmarked under BP.Ms.No.36, dated 18-5-1997 by following the rule of reservation and pass appropriate orders within three months. No order as to costs.

V.ESWARAIAH,J

19th July, 2004.

Shr/Ycr

Asst.Registrar.

To

1. The Chairman and Managing Director, A.P., Central Power Distribution Company Ltd., Singareni Bhavan, Hyderabad.
2. The Superintending Engineer (Operation Circle), Ranga Reddy (South), A.P., Central Power Distribution Company Ltd., Mint Compound, Hyderabad.
3. Two CD copies.